

Safety Concerns with the Michigan Behavioral Health Standard Consent Form (MDHHS-5515): Information for Health Care Providers and Organizations

Because many people have more than one health care provider, systems for sharing information among providers have been developed to prevent mistakes, coordinate care, and save time and money. Although sharing health information among care providers has many benefits, it may also present safety risks for individuals who have experienced domestic violence, sexual assault, or stalking. This document gives you guidance for talking with these individuals about the potential risks and benefits of information sharing, enabling them to make informed decisions about health information sharing. If a person in your care decides to share his or her health information, these questions will explain how the person may give consent in a way that reduces the risks from domestic violence, sexual assault, or stalking.

1. When should health care providers use the standard consent form (MDHHS-5515) for release of specially-protected health information? When must a separate form be used?

Under the federal Health Insurance Portability and Accountability Act (HIPAA), health care providers may share most types of health information with other providers for purposes of payment, treatment, and health care operations. However, other federal and Michigan laws require that providers receive specific consent to share the following types of specially-protected health information:

- Behavioral or mental health services.
- Referrals and treatment for an alcohol or substance use disorder.

The Michigan Department of Health and Human Services has created a standard form (MDHHS-5515) for sharing these types of information, as required under Public Act 129 of 2014.

Beyond the legal requirements just described, federal law gives added protection to information about individuals who have received services for domestic violence, sexual assault, and/or stalking from providers supported by certain types of federal funding. For reasons explained in [question 4](#), providers receiving funding under the federal Violence Against Women Act (VAWA) and/or the Family Violence Prevention and Services Act (FVPSA) may not share personally identifying client information without the client's informed, written, reasonably time-limited consent. MDHHS-5515 does not meet the heightened privacy requirements that apply under these federal laws. To meet the higher

federal standards in VAWA and FVPSA, service providers must use a separate form to obtain consent to share information, as follows:

- **If you receive federal funding under VAWA and/or FVPSA, and you have provided someone with services for domestic violence, sexual assault, or stalking,** do not use the standard form created by MDHHS under Public Act 129 of 2014 (MDHHS-5515) to obtain that person's consent to release information about behavioral or mental health services, or referrals or treatment for substance use disorders. Instead, use a separate form designed to address the heightened safety and privacy concerns that this person may have. [The National Network to End Domestic Violence has a sample Client Limited Release of Information that you may adapt](#) (available in English and Spanish). These Frequently Asked Questions provide you with guidance for using a separate form.
- **If you DO NOT receive federal funding under VAWA and/or FVPSA, and you have provided someone with services for domestic violence, sexual assault, or stalking,** you should not use the standard form created by MDHHS under Public Act 129 of 2014 (MDHHS-5515) to obtain that person's consent to release information about behavioral or mental health services, or referrals or treatment for substance use disorders. Although VAWA and FVPSA do not restrict you from using the standard form, it does not address the heightened safety and privacy concerns that this person may have. [The National Network to End Domestic Violence has a sample Client Limited Release of Information that you may adapt](#) (available in English and Spanish). These Frequently Asked Questions provide you with guidance for using a separate form.
- **If you are seeking health information about a person who has received services for domestic violence, sexual assault or stalking from another provider,** you should not ask the person to complete the standard form created by MDHHS under Public Act 129 of 2014 (MDHHS-5515). The other provider should obtain the person's consent, regardless of that provider's source of funding. This allows the other provider to consult with the person about possible heightened safety and privacy concerns. The other provider should use a separate form to obtain consent to share.

2. Is there a standard separate form? What does a separate form look like?

No standard separate form has been developed for obtaining consent to release information about behavioral or mental health services, or referrals or treatment for substance use disorders from individuals receiving services for domestic violence, sexual assault or stalking. However, many service providers in Michigan use [forms adapted from one developed by the National Network to End Domestic Violence](#) (available in English and Spanish).

3. Not all of the people I serve are receiving services for domestic violence, sexual assault, or stalking. Can I use the standard consent form (MDHHS-5515) for these individuals?

- ***If the agency you work for receives grant funding under the Violence Against Women Act and/or the Family Violence Prevention and Services Act***, follow your federal grant guidelines.
 - ***If the agency you work for does NOT receive federal funding under the Violence Against Women Act or the Family Violence Prevention and Services Act***, the answer is YES. Use a separate form only for individuals who received services for domestic violence, sexual assault, or stalking.
4. **Why is a separate consent form needed to release specially-protected health information for individuals receiving services for domestic violence, sexual assault, or stalking?**

Confidentiality is essential to providing meaningful health care services for individuals who have experienced domestic violence, sexual assault, or stalking. If confidentiality is not assured, fear of the consequences of disclosure may cause these individuals to withhold critical information, or prevent them from seeking supportive services and/or treatment. Some possible adverse consequences from disclosure include:

- For individuals in hiding from abuse perpetrators, disclosure of locating information can result in serious injury or death at the hands of the perpetrator. For these individuals, even the disclosure of a service provider's location or the time and date of appointments can be clues that provide perpetrators access to their targets.
- Some perpetrators threaten serious or lethal harm to their targets or to other people who are important to their targets in retaliation for disclosures of abuse. Information on an insurance form, billing statement, or other health care record that a target has consulted with a provider may result in retaliatory violence, particularly if the provider can be identified as an expert in domestic violence, sexual assault, or stalking.
- A perpetrator who learns that a target has sought health care may subpoena the provider's records in the context of a court case. Information in the records may be used to prejudice the target in a child custody dispute, or child protective proceeding, or to damage the target's credibility as a witness against the perpetrator in a criminal case.
- A perpetrator may use the fact that a target has sought health care to embarrass or humiliate the target in front of supportive friends, family members, or faith community members, or to create doubts about the target as a prospective employee or tenant.

To address the heightened safety and privacy concerns for individuals who have experienced domestic violence, sexual assault or stalking, care providers receiving funding under the federal Violence Against Women Act (VAWA) and Family Violence Prevention and Services Act (FVPSA) must follow strict requirements for obtaining consent to release health information. Although the VAWA and FVPSA requirements apply only to funded care providers, all providers are encouraged to follow them, because they describe best

practices to promote safety regardless of how the provider is funded. [The National Network to End Domestic Violence has developed a sample form that meets the VAWA and FVPSA requirements](#) (available in English and Spanish).

As a final note, abuse perpetrators seeking to locate or harm a target individual may use coercive, manipulative, or fraudulent means to obtain the information needed to carry out their intent. In addition to ensuring that individuals' sensitive health information is protected, health care providers should also be alert to signs that an individual's consent to disclose that information is not voluntarily and willingly given.

5. What's the difference between the standard consent form developed by MDHHS under Public Act 129 of 2014 (MDHHS-5515) and the separate form I should use if I provided services for domestic violence, sexual assault, and/or stalking?

Although the standard consent form provides a convenient mechanism for coordination of care through information sharing, it was not designed to account for the heightened risks faced by people receiving services for domestic violence, sexual assault, and stalking.

- The standard form allows releases of information to multiple recipients, each of whom may have different obligations and policies regarding further disclosures. People with concerns about domestic violence, sexual assault, or stalking need to know how the information they release will be treated in the hands of each recipient. They may have difficulty keeping track of the risk of further disclosures if they are asked to release information to multiple recipients at the same time. Furthermore, for individuals who need to protect their confidential information in the context of legal proceedings, a release to multiple recipients may inadvertently result in unintended waivers of statutory privileges.
- General-purpose disclosures such as those on the standard form may put individuals at greater risk because they are not narrowly tailored to meet specific, well-defined goals. People with concerns about domestic violence, sexual assault, or stalking must limit information-sharing to the minimum amount necessary to accomplish specific, well-defined purposes.
- The long time frame provided in the standard release form may permit disclosures of information beyond a time when this is safe. Perpetrators of domestic violence, sexual assault, and stalking are often volatile individuals who engage in unpredictable behavior. Particularly in cases involving violence against intimate partners, a perceived loss of control over a partner can cause a perpetrator's threatening or violent behavior to escalate in an effort to reassert power over the partner. Releases of information that were safe at one point in time may put an individual at risk days or weeks later. Thus, releases of information for people with safety concerns must be limited to the minimum time necessary to accomplish a specific, well-defined purpose.

- Completing releases with the care providers who provided services for domestic violence, sexual assault, or stalking allows those providers to assess whether a person's consent was voluntary and willing. Providers who honor a release form signed with another provider may not have a chance to assess whether consent was obtained by fraud, duress, or coercion.

6. What should I do if I provided services for domestic violence, sexual assault, and/or stalking and the standard consent form (MDHHS-5515) isn't right for the person who received these services?

First, have a discussion with the person about the risks and benefits of a release. Questions you might ask the person include:

- How will sharing the information help you reach your goals?
- Will the provider to whom your information is released keep your information confidential? If not, with whom might it be shared?
- How might the information be used by you?
- Will releasing the information allow the abuse perpetrator easier access to your records? Will it allow access to more information than was authorized by your release? (For individuals involved in court cases, a release that is overbroad may result in a waiver of any privilege that may otherwise have protected a person's records.)
- Are there ways to accomplish your purposes without having me share the information in question? Could you...
 - Verbally and directly share the information yourself in a phone call or a face-to-face appointment with the prospective recipient?
 - Make the information available from another source that isn't confidential?
 - Ask me to provide the information by way of an independent letter or another written document that clearly states it is not part of my files or records?

If you and the person who received your services decide that a release is necessary, take these steps:

- Review the contents of the file or any other relevant information with the person to determine the minimum amount needed to accomplish the person's purpose.
- Give the person an opportunity to correct inaccurate or incomplete information.
- Determine how much time will be needed to accomplish the person's purpose and limit the duration of the release to that period.
- Limit unnecessary disclosures to multiple recipients. If disclosures to multiple recipients are needed, use a separate release form for each one.
- Use a release process and form that has the following characteristics:
 - An individual's consent to share information must be voluntary and revocable at any time. Provision of services must not be conditioned upon signing any release.

- The release should contain specific beginning and ending dates, and be limited to a period not to exceed 30 days. If more time becomes necessary, the release should provide for the individual to extend its duration.
- The release should describe the information to be shared as specifically and narrowly as possible. Blanket releases of information are unsafe.
- The release should describe the purpose for the release as specifically and narrowly as possible.
- The release must clearly identify the recipient of the information at issue. To avoid confusion arising from differing confidentiality restrictions among care providers and inadvertent disclosures, the information released must be limited to one recipient. Separate forms should be used for multiple recipients of information.
- The release should identify the means by which the information will be transmitted (e.g., verbally, in writing, electronically, etc.).
- The release should provide places for both the individual and provider to sign and date it.

To mitigate the risks of disclosure, releases of information for individuals who have experienced domestic violence, sexual assault, and/or stalking must be written, and limited to a specific time and purpose. Additionally, these individuals should be fully informed about all aspects of any disclosure, so that they can take adequate measures to safeguard themselves against possible negative consequences.

A sample written release form has been developed for adaptation by the [National Network to End Domestic Violence](#) (available in English and Spanish).

7. What should I do if I provided someone with services for domestic violence, sexual assault and/or stalking, and I receive a standard consent form (MDHHS-5515) from another provider that this person has signed?

If you or the agency you work for receive grant funding under the Violence Against Women Act and/or the Family Violence Prevention and Services Act, you may not honor or accept this form. You must obtain the person's written consent on a separate form before disclosing any personally identifying or individual information about the person. This includes information about whether or not you provided services to the person.

- Discuss concerns about the standard form with the person as described in [Question 6](#). If a release is needed, ask the person if he or she is willing to sign a separate release that is appropriate for someone who has received services for domestic violence, sexual assault, and/or stalking. [The National Network to End Domestic Violence has developed a sample form that meets the VAWA and FVPSA requirements](#) (available in English and Spanish).

- If you can do so without disclosing personally identifying or individual information about the person, you may wish to give the provider who sent you the standard consent form (MDHHS-5515) general information about the federal restrictions that you must follow regarding consent forms.

If you or the agency you work for do NOT receive federal funding under the Violence Against Women Act or the Family Violence Prevention and Services Act, you must honor and accept the standard form unless you are held to more stringent requirements under another federal law or regulation. However, you should discuss concerns about the standard form with the person who signed it, as described above in [Question 6](#). This will give the person an opportunity to withdraw his or her consent if it presents safety concerns. Information on withdrawal of consent is available on the [Frequently Asked Questions for Providers and Organizations About the MDHHS-5515, Consent to Share Behavioral Health Information for Care Coordination Purposes](#) document - see question 19.

8. What are referral resources for individuals who have experienced domestic violence, sexual assault, and/or stalking and need additional assistance?

National Domestic Violence Hotline: Call toll-free 24 hours a day anywhere in the U.S. Trained counselors provide confidential crisis intervention, support, information, and referrals to persons experiencing domestic violence, as well as to their families and friends. The hotline also links people to help in their area including shelters, counseling, legal advocacy and social assistance programs. Help is provided in English and Spanish with interpreters available for 139 more languages. All calls are confidential and anonymous.

- By telephone: 1-800-799-SAFE (7233).
- For Deaf individuals: 1-800-787-3224 (TTY) / Video phone: 1-855-812-1001 (Monday to Friday, 9 AM—5 PM PST). Deaf individuals can also contact the Hotline using Instant Messenger (DeafHotline) or Email deafhelp@thehotline.org.
- For the same services by live chat, visit: <http://www.thehotline.org/what-is-live-chat/>.

National Sexual Assault Hotline: Call toll-free 24 hours a day anywhere in the U.S. This service provides confidential counseling and support for individuals who have experienced sexual assault. The hotline automatically routes calls to the rape crisis center nearest the caller by reading the area code and prefix of the caller's phone number.

- By telephone: 1.800.656.HOPE (4673).
- Online hotline: <https://ohl.rainn.org/online/>.

For victims of stalking that does not also involve sexual assault or a perpetrator who is in a domestic relationship with the victim:

- [National Stalking Resource Center](#)
- National Center for Victims of Crime (Help for Crime Victims):
<http://www.victimsofcrime.org/help-for-crime-victims>

Michigan Resources

- To find the Michigan domestic violence or sexual assault program that is nearest your location, visit www.michigan.gov/domesticviolence, or the Michigan Coalition to End Domestic and Sexual Violence at www.mcedsv.org/help/find-help-in-michigan.html.
- Assistance for members of Native American communities who have experienced domestic violence, sexual assault, or stalking can be found by contacting [Uniting Three Fires Against Violence](#) at (906) 253-9775.
- The Community Health and Research Center at the Arab Community Center for Economic and Social Services (ACCESS) offers a Victims of Crime Program that serves any victim of crime in the southeast Michigan community, including Wayne, Macomb and Oakland counties. Services include counseling, psychiatric services, case management and legal advocacy for victims of domestic violence, child abuse, sexual abuse, rape, hate crimes, robbery, assault, theft, burglary, and survivors of homicide. Contact them at 313-216-2225 or www.accesscommunity.org/node/329
- The La Vida Partnership at LA VIDA Partnership, a community program of the Community Health And Social Service Center in Detroit, is a domestic violence and sexual assault intervention and prevention program that provides linguistically and culturally appropriate services and resources targeted to Latino/a youth and families in Southwest Detroit and Southeast Michigan. Information about this organization is found online at: <http://chasscenter.org/?q=LA%20VIDA>.

9. What should I do if the person I am serving is in immediate danger?

Take all discussions of fear and safety seriously and ensure that there is a safe and private area where you can discuss safety options with the person.

- **Calling for help:** Explore whether the person has any safety strategies that have worked in the past. For help with questions about safety, call a local domestic violence advocacy agency or the [National Domestic Violence Hotline](#) 1-800-799-SAFE (7233). [Question 8](#) provides a list of other referral resources. If the person wants to call a local advocacy agency or the Hotline, offer the use of a phone in a place where the person can speak privately. You might also offer the use of a phone to contact friends, family, or other sources of assistance.
- **If the person does not want to contact a local agency or the Hotline,** ask if he or she would like you to call on his or her behalf, without disclosing any identifying information. Local programs and the Hotline should be able to walk you through some

basic safety strategies. Assure the person that the Hotline is confidential and that you will not disclose any personal information. You should honor the person's decision not to call for help, unless there is an imminent threat to the person or others from a perpetrator on the premises. In that case, call 9-1-1.

Even if the person does not want to make a call for help, you can provide written information about domestic violence, sexual assault or stalking, as well as information about local domestic violence advocacy agencies and the National Domestic Violence Hotline. Local agencies should be able to supply written information free of charge; you can download information from the Hotline at this website:

<http://www.thehotline.org/resources/download-materials>. You can either give this information directly to the person, or make it available in places where people can take it discreetly, such as restrooms.

- **Explore what the person will do with any paperwork or written information** that she/he is taking home, especially if she/he still lives with the abuse perpetrator.
- **Consider what the person will do when she/he leaves your office and where she/he will go.** Explore safety options for the rest of the day. Ask questions like: "What is your mode of transportation and is it safe? Where is your car parked? Do you have a safe place to spend the night?"